

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1922 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

CHAMPAKLAL JAGANNATH DHYANI DECEASED BY HIS LEGAL HEIRS

Versus

STATE OF GUJARAT

Appearance:

MR PK PANCHOLI for Petitioners
MR MUKESH PATEL ASSTT. G.P. for Respondent No. 1
MR AJ PATEL for Respondent No. 2, 3, 4, 5

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 17/11/98

ORAL JUDGEMENT

Rule. Service of Rule is waived by Mr. Mukesh Patel, learned Assistant Government Pleader appearing for respondent No. 1 State and Mr. A.J. Patel, learned advocate appearing for respondents Nos. 2 to 5. On the facts and circumstances of the case, this petition is taken up for final hearing today.

2. This petition is directed against the impugned orders dated 1st July, 1992 passed by the learned Deputy

Collector in Tenancy Appeal No. 732 of 1991, dated 24th November, 1995 passed by the learned Tribunal in Revision Application No. 709 of 1992 and 4th December, 1996 passed by the learned Tribunal in Review Application No. TEN.CA.5/96. The short question that was canvassed all throughout was that one Chhotabhai Nathabhai in respect of whom entry No. 4520 dated 20th July, 1966 in respect of land bearing survey No. 2027/1 of village Bakrol admeasuring 0 Acre 27 Gunthas came to be made was not alive and that fact being not in dispute, would go at the root of the matter. Under such circumstances, private parties would have no objection if the matter is remanded to the learned Mamlatdar for holding the inquiry afresh in respect of whether the alleged tenant Chhotabhai Nathabhai, since deceased, was deemed purchaser. In my opinion, it would be just and proper to direct such inquiry being held afresh. In the facts of the case as revealed in the petition and from the submissions made on behalf of the rival parties, following directions are issued :

The impugned orders are hereby set aside and the matter is revived for inquiry as aforesaid being held by the learned Mamlatdar and A.L.T., Anand. The inquiry as aforesaid shall be held and the decision shall be taken as expeditiously as possible after affording an opportunity of hearing to all the concerned parties, in accordance with law, without being influenced by this order. Rule is made absolute in the aforesaid terms only with no order as to cost.

17.11.1998. (M.S.Parikh,J.)

Vyas